

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

ISO New England, Inc.,
New England Participating Transmission Owners
Maine Electric Power Company
New England Power Pool Participants Committee

Docket Nos. ER06-191-000,
ER06-191-001, ER06-193-000
and ER06-193-001

ORDER ON SMALL GENERATOR INTERCONNECTION COMPLIANCE FILING
AND MODIFICATIONS TO LARGE GENERATOR INTERCONNECTION
PROCEDURES AND AGREEMENT

(Issued April 14, 2006)

1. In this order, we accept, in part, and reject, in part, effective March 10, 2006, the Small Generator Interconnection Procedures (SGIP) and the Small Generator Interconnection Agreement (SGIA) filed in response to Order Nos. 2006 and 2006-A¹ and proposed revisions to the Large Generator Interconnection Procedures (LGIP) and the Large Generator Interconnection Agreement (LGIA) submitted by ISO New England, Inc. (ISO-NE), the New England Participating Transmission Owners (PTOs),² Maine

¹ *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, FERC Stats. & Regs. ¶ 31,180 (2005), *order on reh'g*, Order No. 2006-A, FERC Stats. & Regs. ¶ 31,196 (2005).

² The New England Participating Transmission Owners are the New England transmission owners that are parties to the Transmission Operating Agreement with ISO-NE and include: Bangor Hydro-Electric Company; Town of Braintree Electric Light Department; NSTAR Electric & Gas Corporation on behalf of its operating affiliates: Boston Edison Company, Commonwealth Electric Company, Cambridge Electric Light Company and Canal Electric Company; Central Maine Power Company; Central Vermont Public Service Corporation; Connecticut Municipal Electric Energy Cooperative; The City of Holyoke Gas and Electric Department; Florida Power & Light Company – New England Division; Green Mountain Power Corporation; Massachusetts Municipal Wholesale Electric Company; New England Power Company d/b/a National Grid; New Hampshire Electric Cooperative, Inc.; Northeast Utilities Service Company on

Electric Power Company (MEPCO), and the New England Power Pool (NEPOOL) Participants Committee (collectively, Filing Parties) subject to further modifications, as discussed below.

I. Background

2. In Order Nos. 2003³ and 2006, the Commission adopted standard interconnection procedures and a standard agreement for the interconnection of generating facilities having a capacity of more than 20 megawatts (large generators) and no more than 20 megawatts (small generators), respectively. The Commission required public utilities that own, control, or operate facilities for transmitting electric energy in interstate commerce to amend their Open Access Transmission Tariffs (OATTs) to include the *pro forma* interconnection procedures and agreements prescribed in the rules.

3. In both proceedings, the Commission recognized that there may be instances that require variations from Order Nos. 2003 and 2006. The Commission also permitted Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs) to justify any variation to the *pro forma* interconnection procedures and agreements based on regional needs.⁴

4. The Commission also stated that to the extent a filing party proposes to deviate from the *pro forma* interconnection agreement or interconnection procedures, it must identify the section or article number that is being modified and explain the unique circumstances requiring the non-conforming change.⁵

behalf of its affiliates: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire; Holyoke Power and Electric Company and Holyoke Water Power Company; Taunton Municipal Lighting Plant; Town of Norwood Municipal Light Department; Town of Reading Municipal Light Department; The United Illuminating Company; Unitil Energy Systems, Inc.; and Fitchburg Gas and Electric Light Company; Vermont Electric Cooperative, Inc.; Vermont Electric Power Company, Inc.; and Vermont Public Power Supply Authority.

³ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats & Regs. ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005).

⁴ Order No. 2003 at P 827.

⁵ Order No. 2003 at P 915; *see also* Order No. 2003-B at P 140.

II. Compliance Filings

5. On November 10, 2005, as amended on February 15, 2006, the Filing Parties submitted a compliance filing in Docket Nos. ER06-191-000 and ER06-191-001 in which they propose revisions to ISO-NE's OATT, to incorporate the SGIP and SGIA with regional variations, as Schedule 23. They also proposed amendments to the local service schedules under Schedule 21 of ISO-NE's OATT, the Transmission Operating Agreement (TOA) and the MEPCO Transmission Operating Agreement between ISO-NE and MEPCO (MEPCO TOA). According to the Filing Parties, the proposed amendments reflect conforming and clarifying language that reflects the rights, obligations and responsibilities of ISO-NE and the PTOs consistent with the proposed SGIP and SGIA.

6. On November 10, 2005, as amended on February 15, 2006, the Filing Parties⁶ submitted in Docket Nos. ER06-193-000 and ER06-193-001 amendments proposed to revise ISO-NE's *pro forma* LGIP and LGIA (Schedule 22) to incorporate what they characterize as improvements identified since implementation of Order No. 2003.

7. On December 21, 2005, the Filing Parties filed motions for extension of time, to March 10, 2006, to comply with Order No. 2006 and requested that the effective date be changed from January 9, 2006 to March 10, 2006. The Filing Parties also requested a new effective date of March 10, 2006, for their proposed changes to ISO-NE's LGIP and LGIA tariff provisions. On December 27, 2006, the Commission granted the extensions of time and the new effective date as requested.

8. The Filing Parties are proposing numerous independent entity variations⁷ to modify certain provisions of ISO-NE's SGIP, SGIA, LGIP and LGIA and the TOA and the MEPCO TOA. They contend that these independent entity variations will benefit customers by providing greater certainty, efficiency and reliability and are therefore just and reasonable.

III. Notice of Filing and Responsive Pleadings

9. Notice of the filings in Docket Nos. ER06-191-000 and ER06-193-000 was published in the *Federal Register* (70 Fed. Reg. 71,125 (2005)), with comments due on or before December 1, 2005. Notice of the filings in Docket Nos. ER06-191-001 and ER06-193-001 was published in the *Federal Register* (71 Fed. Reg. 10,492 (2006)) with comments due on or before March 8, 2006. No interventions or protests were filed.

⁶ The Filing Parties note that the rights under Section 205 of the Federal Power Act (FPA) to modify the LGIA and LGIP are allocated between ISO-NE and the PTOs in accordance with Sections 2.05 and 2.04 of the TOA.

⁷ See Order No. 2003 at P 827 and Order No. 2006 at P 549.

IV. Discussion

10. The Commission will accept most of the proposed independent entity variations requested by the Filing Parties effective March 10, 2006, as requested. The Commission finds that the Filing Parties have sufficiently demonstrated that most of the proposed independent entity variations are necessary based on ISO-NE's regional needs. Specifically, we find that the proposed revisions to the definition of Generating Facility Capacity, Affected Parties, Material Modification, Queue Position, Site Control, Administered Transmission System, and Affected Systems add clarity to the interconnection process. We also find that the Filing Parties' request to include certain milestones ensures completion of the interconnection facilities. In addition, we will accept, as discussed below, the proposed definition of Interconnection Request. Further, we also find that the Filing Parties have made a sufficient demonstration justifying the proposed amendments to the local service schedules and the TOA.

11. However, as discussed below, the Filing Parties have not made a sufficient demonstration showing that certain of the proposed variations are necessary, and we will either reject them or accept them, in part, as discussed below. ISO-NE is directed to file revised tariff sheets within 30 days of the date of this order consistent with the Commission's findings herein.

A. The Standard for Review

12. As was noted, Order No. 2003 includes an "independent entity variation" standard that permits an RTO/ISO to adopt interconnection procedures that are responsive to specific regional needs. Under this standard, the Commission affords an RTO/ISO greater flexibility than a non-independent transmission provider because an RTO/ISO does not own generation, and thus lacks the incentive to discriminate in favor of certain generation or to obstruct access to the grid by independent generators. Nonetheless, when an RTO/ISO is the filing entity, as is the case here, the Commission will review the proposed variations to ensure that they do not provide an unwarranted opportunity for undue discrimination or produce an interconnection process that is unjust and unreasonable.⁸

⁸ *PJM Interconnection, L.L.C.*, 108 FERC ¶ 61,025 at P 7 (2004) and *Midwest Independent Transmission System Operator, Inc.*, 114 FERC ¶ 61,270 at P 29 (2006).

B. Issues Relating to Both Schedules 22 and 23**1. Definition of Interconnection Request**

13. The Commission, in Order No. 2003, explained that the rule applies to interconnections to a public utility's electric system that, at the time the interconnection is requested, may be used either to transmit electric energy in interstate commerce or to sell electric energy at wholesale in interstate commerce pursuant to a Commission-filed OATT.⁹ FPA section 201(b)(1) gives the Commission the authority to regulate "all facilities" used for transmission and for the wholesale sale of electric energy in interstate commerce.¹⁰ The same FPA section denies the Commission jurisdiction "over facilities used in local distribution" except as specifically provided in Parts II and III of the FPA.¹¹

14. The Commission also stated that Order No. 2003 also applies to a public utility's "distribution" system insofar as it is used to transmit electric energy in interstate commerce on behalf of a wholesale purchaser pursuant to a Commission-filed OATT.¹² But where the distribution facilities have a dual use, that is, the facilities are used for both wholesale sales and retail sales, Order No. 2003 applies to these interconnections only for the purpose of making sales of electric energy for resale in interstate commerce.¹³

15. The Commission further stated that its assertion of jurisdiction in Order No. 2006 is identical to the jurisdiction asserted in Order Nos. 2003 and 888 and upheld by the Supreme Court in *New York v. FERC*.¹⁴

16. The Filing Parties propose to modify the definition of "Interconnection Request" to clarify that it applies only to requests to interconnect generating facilities to the Administered Transmission System. The Filing Parties state that the proposed definition would make it clear that an Interconnection Request does not constitute the following: (1) a request by a retail customer to interconnect a new generating facility that will produce electric energy to be consumed only on the retail customer's site; (2) a request to interconnect a new generating facility that will not be used to make wholesale sales of electricity in interstate commerce; and (3) a request to interconnect a Qualifying Facility where the intent of the owner is to sell 100 percent of its output to the interconnected

⁹ Order No. 2003 at P 804.

¹⁰ 16 U.S.C. § 824a(b)(1) (2000).

¹¹ *See Id.*

¹² *See* Order No. 2003 at P 804.

¹³ *See Id.*

¹⁴ Order No. 2006 at P 481.

electric utility. The Filing Parties contend that this proposed modification will assist the interconnecting parties in assessing whether the Interconnection Customer's proposed activities trigger the applicability of the *pro forma* interconnection procedures. The Filing Parties state that the definition is modified so that the SGIP would apply to existing generating facilities in the event that a generator, not interconnected pursuant to the ISO Tariff, commences participation in the wholesale market.

17. The Filing Parties state that the proposed modification is needed to protect the region from potential gaming of state and federal interconnection procedures. According to the Filing Parties, if an Interconnection Customer states that it has no intent to sell electric energy at wholesale in interstate commerce, it should be required to adhere to state-jurisdictional interconnection procedures. The Filing Parties state that in these instances, the Feasibility, System Impact and Facilities Studies must assume that the Interconnection Customer does not intend to export power onto the grid. The Filing Parties state that they are concerned that there may be instances if an Interconnection Customer later decides to sell into the wholesale market, and in those cases, the Interconnection Customer will not have paid its fair share of the Network Upgrades needed to accommodate the sale because the studies would have understated the upgrades necessary to interconnect the Interconnection Customer to the grid. They contend that the proposed language eliminates this potential.

Commission Conclusion

18. While we believe that the current definition of "Interconnection Request" is clear, as it is also a term used in the OATT, we will nonetheless accept the proposed definition because it adds further clarity and it does not change the Commission's underlying policy. Moreover, in Order No. 2003, the Commission stated that when an electric utility purchases the QF's total output, the relevant state authority exercises authority over the interconnection and the allocation of interconnection costs.¹⁵

2. Section I.3.9 Review Process

19. Section II.47.1 of ISO-NE's OATT requires that the Generator Owner submit its generator interconnection proposal for review in accordance with Section I.3.9 of ISO-NE's Transmission, Market and Service Tariff. Section I.3.9 requires that the Interconnection Customer (or if the Interconnection Customer is not a Market Participant,¹⁶ the Transmission Owner acting on the Interconnection Customer's behalf)

¹⁵ Order No. 2003 at P 813.

¹⁶ Market Participant is defined in ISO-NE's FERC Electric Tariff No. 3, Section III – Market Rule 1 – Standard Market Design, as a participant in the New England Markets that has executed a Market Participant Service Agreement, or on whose behalf

submit for approval by ISO-NE any new or materially changed plan or any other action to be taken by the Interconnection Customer/Market Participant that may have a significant effect on the stability, reliability or operating characteristics of the Transmission Owner's transmission facilities, the transmission facilities of an affected Transmission Owner, or the system of a Market Participant. Section I.3.9 further states that no significant action (other than preliminary engineering action) shall be taken by the Interconnection Customer or Market Participant earlier than sixty days (or ninety days if ISO-NE determines that it requires additional time to consider the plan) after the plan has been submitted to ISO-NE. In making its determination on proposed plans, ISO-NE, in accordance with the Participants Agreement, must first consult with the NEPOOL Reliability Committee to obtain the Reliability Committee's advisory input before an Interconnection Request can be approved.

20. The Filing Parties state that they seek to ensure seamless coordination between the interconnection procedures and Section I.3.9 by making the Section I.3.9 review process part of the interconnection process. They state that the proposed changes will provide the Interconnection Customer with a choice of either: (1) proceeding quickly by having the Section I.3.9 process proceed in parallel with the generator interconnection process; or (2) waiting for the Section I.3.9 review process to be completed prior to the start of the Facilities Study. According to the Filing Parties, if the Interconnection Customer selects Option 2 and the review process shows that an additional study is needed, the Interconnection Customer can withdraw its Interconnection Request without having to pay for the Facilities Study.

21. The Filing Parties acknowledge that the proposed change would increase the time for processing interconnection studies should the Interconnection Customer choose Option 2. They argue, however, that their experience shows that Interconnection Customers prefer this choice. They also argue that the Interconnection Customer should not experience any undue financial impact as a result of the Section I.3.9 review process. The Filing parties shall submit a compliance filing within 30 days of this order to justify the time for completing the Section I.3.9 review process.

Commission Conclusion

22. We reject the proposed changes to incorporate the Section I.3.9 review process into the interconnection process. The Section I.3.9 review process is a study requirement beyond what is required in Order Nos. 2003 and 2006, and as proposed would significantly increase the time for processing interconnection studies. The Filing Parties have not shown that the timeframe to complete the Section I.3.9 study is just and

an unexecuted Market Participant Service Agreement has been filed with and accepted or approved by the Commission.

reasonable. Nor have the Filing Parties shown that a separate Section I.3.9 study is necessary beyond the three studies conducted during the interconnection study process as provided for in Order Nos. 2003 and 2006. As such, if ISO-NE wishes to conduct such a review process, it must incorporate the process into the timeframes as provided for in conducting the interconnection studies without causing any delay. Furthermore, in this era of telecommunications, ISO-NE should be able to hold special sessions or conference calls to obtain approval from the NEPOOL Reliability Committee within the timeframes of the interconnection studies.

3. Application of the Interconnection Request Deposit

23. Section 3.1 of the Order No. 2003 *pro forma* LGIP requires that the deposit, submitted along with the Interconnection Request, be applied toward the cost of a Feasibility Study or toward the cost of the System Impact Study if the Interconnection Customer decides not to pursue the Feasibility Study as a separate study. Section 3.3.3 of the LGIP provides that if the Interconnection Request is deficient, the Interconnection Customer has 10 business days to cure the deficiencies or the Interconnection Request will be deemed withdrawn.

24. Section 1.3 of the Order No. 2003 *pro forma* SGIP requires the applicant to submit a processing fee or deposit along with the Interconnection Request. If the Interconnection Request is deficient, the Interconnection Customer has 10 business days to cure the deficiencies or request an extension of time to cure the deficiencies. If the Interconnection Customer fails to cure the deficiencies or request an extension of time within the deadline, the Interconnection Request will be deemed withdrawn.

25. The Filing Parties propose to apply the deposit towards the cost of evaluating the Interconnection Request and curing any deficiencies in the Interconnection Request and to other administrative costs, such as staff and consultant time for participating in the scoping meeting. They state that ISO-NE frequently incurs costs associated with curing Interconnection Request deficiencies. The Filing Parties claim that the time spent processing and administering the Interconnection Requests adversely affects their ability to perform other system planning work. ISO-NE bills these expenses against its general billing costs, which are ultimately passed through to the Market Participants. ISO-NE complains that there is no mechanism for recovering such costs in its OATT.

Commission Conclusion

26. The Commission will reject the Filing Parties' request to apply the Interconnection Customer's deposit toward the cost of evaluating the Interconnection Request and curing any deficiencies in the Interconnection Request. The Filing Parties' request constitutes a request for a new rate under FPA section 205. In order for ISO-NE to charge a cost-based fee for processing Interconnection Requests, it has to first make an appropriate rate

filing under FPA section 205, pursuant to section 35.12 of the Commission's regulations, with cost support justifications.¹⁷

4. Revisions to *Pro Forma* Timelines

27. In Order No. 2003, LGIP Sections 6.3 and 7.4 require that the Transmission Provider use reasonable efforts to complete the Interconnection Feasibility Study no later than 45 calendar days after the Transmission Provider receives the executed Interconnection Feasibility Study Agreement and 90 calendar days after the close of the Queue Cluster Window, respectively. If the Transmission Provider determines that it cannot meet the required time frame for completing these studies, the Transmission Provider is required to notify the Interconnection Customer and provide estimated completion dates with an explanation of the reasons why additional time is required. The Filing Parties propose to increase the time for completing the Feasibility Study and the System Impact Study from 45 calendar days to 60 calendar days and from 90 calendar days to 120 calendar days, respectively.

28. In Order No. 2006, Attachment 7 to the SGIP requires that a distribution System Impact Study be completed within 30 business days after the System Impact Study Agreement is signed by the parties. The Filing Parties propose to increase this time to 55 business days.

29. LGIP *pro forma* Section 11.1 of Order No. 2003 requires that the Transmission Owner tender a draft interconnection agreement, together with draft appendices completed to the extent practicable, within 30 calendar days after the comments on the draft Facilities Study Report are submitted. The Filing Parties propose to shorten this time to 15 calendar days.

30. The Filing Parties state the above proposed increases in the time to complete Interconnection Study Agreements are just and reasonable because they reflect ISO-NE's actual experience in administering studies and because the deadlines will be administered on a non-discriminatory basis by ISO-NE, an "independent entity." ISO-NE states that while it already has the latitude to seek reasonable extensions of time to perform individual studies,¹⁸ chronicling an accurate timeline in the LGIP and SGIP adds value to the Interconnection Customer by providing the customer with an accurate assessment of study timelines in order to assist it as they develop its business plan.

31. The Filing Parties state that the core rationale behind their request for additional time is, however, due to the tightly-integrated nature of the New England bulk power

¹⁷ 18 C.F.R. § 35.12 (2005).

¹⁸ See LGIP Sections 6.2, 7.4, 8.3 and 10.3.

system. They state that as a result, not only are studies complicated to complete, but ISO-NE also needs to involve multiple parties in developing study assumptions, in providing input data to the study, and in reviewing interim study results. ISO-NE states that since the advent of the NEPOOL OATT in March 1997, its practice has been to have a standing working group of Transmission Owners' transmission personnel to support this need. ISO-NE indicates that even though the standing working group tries to meet the existing time constraints, ISO-NE's experience is that more time is needed.

32. As further justification for its proposed increases in the timelines, ISO-NE notes that, with respect to the Small Generator Interconnections, its proposed timelines more closely align the SGIP with similar pre-existing generator interconnection procedures in Connecticut and Massachusetts.¹⁹ ISO-NE states that because Small Generator Interconnection customers may interconnect to state-jurisdictional distribution systems, and because the point of interconnection may not be clear given the tightly-integrated nature of the bulk power system in New England, it is important regionally to minimize the variation in how an Interconnection Request in New England is processed. Finally, ISO-NE states that the extensions of time it proposes will harmonize regional study timelines for transmission system and distribution system studies, resulting in greater regional efficiency in processing Interconnection Requests.

Commission Conclusion

33. In Order No. 2003-A, the Commission reaffirmed its ruling that the timelines for the completion of the Interconnection Studies are reasonable.²⁰ The Commission based its rationale on the fact that the *pro forma* LGIP recognizes that the Transmission Provider may not be able to complete each study within the specified time.²¹ While ISO-NE recognizes that it currently has this flexibility to extend the deadlines on a piecemeal basis, it contends that revising the timeline deadlines to more closely match its actual experience will benefit the Interconnection Customer by providing it with an accurate assessment of study timelines to assist it as it develops its business plan.

34. The Commission finds that ISO-NE has not provided sufficient data showing that its proposal to extend the deadlines across the board, rather than on a case-by-case basis, is necessary and just and reasonable. For example, ISO-NE does not indicate how often

¹⁹ See *The Connecticut Light and Power Company and The United Illuminating Company Guidelines for Generator Interconnection*, dated April 30, 2004 and approved by the Connecticut Department of Public Utility Control in its Docket No. 03-01-15.

²⁰ Order No. 2003-A at P 150.

²¹ See LGIP Section 6.3 (Interconnection Feasibility Study Procedures), Section 7.4 (Interconnection System Impact Study Procedures), Section 8.3 (Interconnection Facilities Study Procedures).

it uses its existing flexibility to extend the current deadlines. In other words, ISO-NE has not fully explained why the Commission's reaffirmation of its decision on this issue in Order No. 2003-A is not sufficient to meet the requirements in New England.

35. The Commission further believes that the SGIP *pro forma* deadlines strike a good balance, allowing sufficient time to complete the studies while ensuring that Small Generating Facilities can be interconnected within a reasonable time.²² While the Filing Parties state that the proposed changes to timelines reflect their actual experience in administering the interconnection process, they have not provided any evidence showing the actual time that it takes for them to complete the interconnection process.

36. With respect to the Filing Parties' argument that the timelines they propose will benefit customers because the proposed timelines dovetail with timelines adopted by Connecticut and Massachusetts, the Commission is not persuaded by this argument since it is unclear what the timelines are in the other New England states, and whether, overall, the proposed changes promote or hinder reasonable interconnection.

37. We accept the Filing Parties' proposal to shorten the time to 15 calendar days for ISO-NE and the Transmission Owners to provide the Interconnection Customer a draft interconnection agreement and its draft appendices. The shortened deadline expedites the processing of interconnection requests.

C. Issues Relating to Schedule 22 – LGIP and LGIA

1. Revision to Study Deposit Amounts

38. In Order No. 2003, the LGIP requires a deposit of: \$10,000 for the Feasibility Study; \$50,000 for the System Impact Study; the greater of \$100,000 or the Interconnection Customer's portion of the estimated monthly cost of conducting the Facilities Study; and \$10,000 for an Optional Study.

39. The Filing Parties propose to amend ISO-NE's LGIP Section 13.3 to require ISO-NE and the Transmission Owners to pay interest on the Interconnection Customer's deposits or study payments that exceed the study costs incurred, and the Interconnection Customer would be required to pay interest on costs incurred by ISO-NE or the Transmission Owners that exceed the original deposit and study payments. The Filing Parties state that they have reduced the deposit amount for the interconnection studies to the lesser of the estimated cost of performing the study or the *pro forma* deposit amounts. The Filing Parties state that they added the calculation of interest on costs incurred by ISO-NE or Transmission Providers as a *quid pro quo* to the reductions in deposit

²² Order No. 2006 at P 192.

amounts. They also state that the proposed change will be less burdensome on the Interconnection Customer if its estimated study cost is less than the *pro forma* deposit amount.

Commission Conclusion

40. We reject the Filing Parties' proposed variation to Section 13.3. While the Filing Parties state that the proposed change reflects a balance to the reductions in the deposit amounts, the Commission finds that they have not shown that the proposed variation is just and reasonable. It is not clear to the Commission how interest expenses will impact the Interconnection Customers and the Transmission Owners. As we stated in Order No. 2003, we are not persuaded that interest costs would be large enough to warrant the additional administrative expense that the Transmission Provider would incur in tracking the amounts due.²³

2. Process for Executing Study Agreements

41. LGIP *pro forma* Section 6.1 requires that the Transmission Provider provide a signed Feasibility Study Agreement to the Interconnection Customer within 5 business days after the Transmission Provider has received notice of the designated Point(s) of Interconnection. The Interconnection Customer is then required to execute and deliver the Feasibility Study Agreement to the Transmission Provider.

42. The Filing Parties propose to modify certain provisions in the LGIP and LGIA to distinguish between signing an interconnection study agreement by each party and executing the study agreement by all parties. More specifically, the Filing Parties propose to specify which interconnection study agreements are tendered for signature by the System Operator and the Transmission Owner, and which interconnection study agreements will be prepared for execution. The Filing Parties state that ISO-NE has experienced two recurring problems with the *pro forma* process relating to the timing of tendering and returning the three-party study agreement among ISO-NE, the Transmission Owner and the Interconnection Customer.

43. The Filing Parties contend that because the study agreement is a three-party agreement, ISO-NE cannot tender a draft study agreement to the Interconnection Customer with signatures of both ISO-NE and the Transmission Owner within 5 business days of receiving the Interconnection Customer's notice of its designated Point(s) of Interconnection. In addition, they contend that the study assumptions, study cost estimates, and the necessary signatures of the appropriate parties must be obtained.

²³ Order No. 2003 at P 279.

44. The Filing Parties also contend that when the Interconnection Customer proposes unilateral modifications to the study agreement after both ISO-NE and the Transmission Owner have already signed the study agreement, additional time is required for the three parties to agree on the changed study assumptions and complete the signature process again.

Commission Conclusion

45. We reject the Filing Parties' proposal to modify the LGIP and LGIA to distinguish between signing an interconnection study agreement by a party and executing the study agreement by all parties. The Filing Parties have not shown that the proposed changes will decrease the time needed to obtain appropriate signatures and thus have not shown that their proposal is just and reasonable. We also believe that the study agreements can be reviewed and signed simultaneously by the appropriate parties without creating unnecessary delays. For example, the Commission often receives executed LGIAs with three different signature pages. Those pages reflect that the parties had reviewed and executed the agreements simultaneously.

D. Issues Relating to Schedule 23 – SGIP and SGIA

1. Split Responsibilities between ISO-NE and the Interconnecting Transmission Owner

46. In Order No. 2003-A, the Commission clarified that for a non-independent Transmission Owner belonging to an RTO or ISO, the RTO's or ISO's Commission-approved standards and procedures would govern all interconnections with facilities under the operational control of the RTO or ISO.²⁴ This interpretation also applied to Order No. 2006. In Order No. 2006, the Commission stated that its existing interconnection precedent and Order No. 2003 are relevant to Order No. 2006 and should be used as guidance for interpretation and implementation.²⁵

47. The Filing Parties propose to modify the split of responsibility for the interconnection process between ISO-NE and the Transmission Owners. They propose that where the generator interconnection to distribution facilities are FERC-jurisdictional, ISO-NE will have administrative control over the interconnection process under the terms of ISO-NE's OATT; but the Transmission Owners will have the lead responsibility for studying the impact of a generator interconnection on their respective distribution facilities.

²⁴ Order No. 2003-A at P 52.

²⁵ Order No. 2006 at P 59.

48. The Filing Parties also propose to amend the TOA to provide that Transmission Owners will be responsible for notifying ISO-NE if generator interconnections to distribution facilities are likely to have an impact on the transmission system. They argue that this approach recognizes that the Transmission Owners, rather than ISO-NE, have knowledge, expertise and operational control over the Transmission Owners' distribution facilities. Under the proposal, ISO-NE would provide only dispute resolution services. The Transmission Owners would be responsible for the rest of the process, including receiving the interconnection request from the generator, processing the interconnection request, administering the deposits, conducting the studies, administering a separate queue, and signing the interconnection request. The Transmission Owners would also conduct the interconnection studies for all distribution interconnections greater than 2 MWs, however ISO-NE will take the lead in all other respects.

49. The Filing Parties believe there is a high likelihood for the Interconnection Customer to be confused when a generator requests an interconnection because the exact Point of Interconnection is not always known to the Interconnection Customer and it may be unclear whether Commission-approved interconnection procedures or state-jurisdictional procedures apply. According to the Filing Parties, the Interconnection Customer may not know the correct party to approach for the Interconnection Request.

50. For example, for non-jurisdictional facilities, the party could be the Transmission Owner, the Distribution Company or a municipally-owned entity. Instead of ISO-NE taking the lead responsibility for each step of the interconnection process, the Filing Parties propose to modify the procedures for interconnecting a generator of 2 MWs or less. While ISO-NE will continue to oversee the process and be available as necessary for dispute resolution, the interconnection agreement will be a two-party agreement between the Interconnection Customer and the Transmission Owner. In addition, Interconnection Requests falling into this category will not be placed in the regional queue. Rather, they will be included in the local queue of the Transmission Owner. In addition, the Transmission Owner will oversee all studies associated with generators of 2 MW or less.

Commission Conclusion

51. We will accept, in part, and reject, in part, the splitting of responsibilities between ISO-NE and the Transmission Owners. In Docket Nos. ER04-433 and ER04-432 *et al.*, NEPOOL and the Transmission Owners made contemporaneous filings to comply with Order No. 2003 and 2003-A. In that proceeding, the Transmission Owners proposed numerous variations to the *pro forma* LGIPs and LGIAs to be adopted in their Local OATTs for non-PTF and to retain control over the interconnection process for these facilities. The Commission rejected the Transmission Owners' proposed LGIPs and LGIAs and stated:

Should the Transmission Owners seek to implement any variations in these requirements, they may do so in a new filing and either: (i) explain why the proposed variations are consistent with or superior to our Order No. 2003 standards; (ii) agree to transfer to ISO New England, or its successor RTO, control over the significant aspects of Local OATT interconnection process, including the performance of all interconnection studies and cost determinations applicable to system upgrades; or (iii) as to any individual Transmission Owner variations based on a regional reliability standard, support such variations by reference to the specific regional reliability standard relied upon.²⁶

52. In their compliance filing with the November 8 Order, the Transmission Owners elected to transfer to ISO-NE control over the significant aspects of the Local OATT interconnection process, including the performance of all interconnection studies and cost determinations applicable to system upgrades. The Commission accepted their proposal and stated that the Transmission Owners' and ISO-NE's proposal in Docket No. RT04-2-011, *et al.*, satisfied the requirements of the *November 8 Order*.²⁷

53. In the instant filing, the Filing Parties are again proposing to split the responsibility for conducting the studies on proposed generator interconnections. The Commission is not persuaded that the proposed independent entity variation is just and reasonable and will add clarity to the generator interconnection process. The Commission continues to believe that all Interconnection Requests to facilities under ISO-NE's OATT should be subject to ISO-NE's interconnection process and the tariff should reflect these responsibilities.²⁸ That process is predicated on an independent review of the Interconnection Request by the ISO/RTO, and a level of participation by the ISO/RTO that alleviates concerns that a Transmission Owner will behave in a discriminatory fashion. Splitting these responsibilities could significantly undermine the safeguards that the Commission expected to be in place in an ISO/RTO system. Only interconnections to facilities that are not subject to a Commission-jurisdictional OATT may be governed by the Transmission Owner's interconnection process and procedures.

2. Insurance Requirements

54. Order No. 2006 provides that the amount of insurance be sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the

²⁶ *New England Power Pool, et al.*, 109 FERC ¶61,155 (2004) at P 74 (November 8 Order).

²⁷ *ISO New England, Inc., et al.*, 110 FERC ¶ 61,335 (2005) at P 30.

²⁸ Order No. 2006 at P 59.

characteristics of the system to which the interconnection is made. While no dollar amounts were adopted in Order No. 2006 for insurance, Order No. 2003 provided specific amounts. Specifically, *pro forma* LGIA Article 18.3 provides the following insurance coverages: (1) a minimum limit of \$1,000,000 for Commercial General Liability Insurance; (2) a minimum combined single limit of \$1,000,000 for Comprehensive Automobile Liability Insurance; (3) a minimum combined single limit of \$20,000,000 for Excess Public Liability Insurance.

55. The Filing Parties propose to substantially modify the SGIA insurance requirements by replacing the Commission's requirements with more specific requirements that duplicate the insurance requirements adopted by the Massachusetts Department of Telecommunications and Energy. The proposed insurance provisions employ a specific, tiered approach for general liability insurance based on the overall size of the generating facility. It also specifies commercial practice requirements concerning insurer requirements, evidence of insurance and self-insurance.

56. Specifically, the Filing Parties propose: (1) \$5,000,000 for each occurrence and in the aggregate if the Gross Nameplate Rating of Interconnection Customer's Small Generating Facility is greater than 5 MW; (2) \$2,000,000 for each occurrence and \$5,000,000 in the aggregate if the Gross Nameplate Rating of Interconnection Customer's Small Generating Facility is greater than 1 MW and less than or equal to 5 MW; (3) \$1,000,000 for each occurrence and in the aggregate if the Gross Nameplate Rating of Interconnection Customer's Small Generating Facility is greater than 100 KW and less than or equal to 1 MW; and (4) \$500,000 for each occurrence and in the aggregate if the Gross Nameplate Rating of Interconnection Customer's Small Generating Facility is greater than 10 KW and less than or equal to 100 KW, unless the general liability insurance is waived or not required in the state where the interconnection occurs.

57. The Filing Parties state that the proposed insurance requirements were devised through a collaborative process among stakeholders in Massachusetts. They further state that the proposed requirements are superior to the *pro forma* requirements because they contain specific and quantifiable terms which will increase the efficiency of the SGIA negotiating process and add predictability for generators.

Commission Conclusion

58. We find the proposed insurance requirements to be unjust and unreasonable, and we will reject them. The amounts of insurance proposed by the Filing Parties for small generating facilities exceed the minimum amount of insurance that the Commission required for large generators in Order No. 2003.²⁹ The Filing Parties have not provided

²⁹ See LGIA Article 18.3.

any data to show that small generators' potential liabilities warrant the proposed levels of insurance.

The Commission orders:

(A) The Filing Parties' proposed modifications to the LGIA, LGIP, SGIA and SGIP are hereby accepted in part and rejected in part, as discussed in the body of this order, effective March 10, 2006.

(B) The Filing Parties' proposed modifications to the TOA are hereby accepted in part and rejected in part, as discussed in the body of this order, effective March 10, 2006.

(C) The MEPCO TOA and the local service schedule amendments are hereby accepted effective March 10, 2006.

(D) The Filing Parties are, hereby, directed to submit a compliance filing, consistent with the Commission's findings, as discussed in the body of this order, within 30 days of the date of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.